IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 5TH DECEMBER 2007/14TH AGRAHAYANA 1929

WP(C).No. 31795 of 2007(I)

PETITIONER:

AMMINIKUTTY, W/O.T.N.DIVAKARAN,
THACHURUTHI PARAMBU, CHALIKKAVATTOM,
VENNALA P.O., KANAYANNUR TALUK.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:

1. T.N.DIVAKARAN, S/O.NARAYANAN, CHAVELI PARAMBU, CHALIKKAVATTOM, VENNALA P.O., KOCHI-682 028, NEAR KUPPY COMPANY OFFICE.

2. T.D.SHIJAN, S/O.NARAYANAN, DO. DO.

3. SIVADASAN, KUTTIKKATTIL HOUSE, DESABHIMANI ROAD, KOCHI-682 017.

4. COMMISSIONER OF POLICE, ERNAKULAM.

5. CIRCLE INSPECTOR OF POLICE, PALARIVATTOM.

6. STATE OF KERALA, REP. BY SECRETARY, HOME DEPT., SECRETARIAT, TRIVANDRUM.

BY GOVT. PLEADER SRI.P.A.SALIM
BY ADV. SRI.A.P.SUBHASH
SRI.P.K.RAVISANKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 31795/2007

PETITIONER'S EXHIBITS:

EXT. P1 TRUE PHOTOCOPY OF THE IA 2971 IN OP 1241/02 IS PRODUCED DT. 20.12.02

EXT. P2 TRUE PHOTOCOPY OF THE REPRESENTATION SEEKING PROTECTION TO LIFE AND PROPERTY OF THE PETITIONER FILED BEFORE FOURTH AND FIFTH RESPONDENTS ON 6.10.07

EXT. P3 THE ORIGINAL PHOTOGRAPHS SHOWING THE DAMAGE CAUSED TO THE MOVABLE ARTICLES, UTENSILS, ETC. BY THE RESPONDENTS

RESPONDENT'S EXHIBITS:

EXT.R1(a) COPY OF THE AFFIDAVIT DT. 25.10.07 FILED BY THE DAUGHTER OF THE PETITIONER IN OP 1241/02 BEFORE THE FAMILY COURT, ERNAKULAM

EXT. R1(b) COPY OF THE FIR DT. 16.11.07 IN CRIME NO.898/07 OF PALARIVATTOM POLICE STATION

/TRUE COPY/

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 31795 of 2007 I

JUDGMENT

Balakrishnan Nair, J.

The petitioner has approached this Court seeking police protection to her life and property against the actions of respondents 1 and 2, who are respectively her husband and the eldest son. The residential building, in which the petitioner resides, is in the name of the first respondent/ husband. He is trying to sell it. Therefore, she moved the Family Court and obtained an interim order against alienation of the said residential building. Now, with the intention to sell the property respondents 1 and 2 are trying to drive her out from the house. They are physically harassing and manhandling her. On several occasions, they came to her house and caused physical injury to her and her younger son Muthu,

it is submitted. Therefore, she filed Exhibit P2 representation before the police and thereafter this writ petition is filed seeking appropriate reliefs.

2. A counter affidavit has been filed on behalf of respondents 1 to 3. It is submitted that the first respondent is aged 70 and he is suffering from disc prolapse. The petitioner has developed illicit relationship with one of the colleagues of the first respondent and thereafter, the said respondent was driven out of the house by her and now he is practically on the street. After the marriage of the second respondent, he was also driven out of the house by the petitioner. The allegations of the petitioner are baseless and unfounded, it is submitted.

3. The learned counsel for the first respondent also submitted that after filing of the writ petition, the petitioner's daughter, who was residing in that house, was brutally manhandled for opposing the immoral relationship of the

petitioner. The daughter was hospitalised with bodily injuries. The daughter is aged 31 and she has crossed the marriageable age. The first respondent wanted to sell the property to raise funds to give her in marriage. Before the Family Court also he has agreed to pay a substantial portion of the sale consideration to the petitioner. But, she is not agreeing for the proposal to sell the property. It is further submitted that the daughter, when she was discharged from the hospital, wanted the first respondent also to accompany her to the house and now he is staying in the house, where the petitioner and the younger son are already residing. Respondents 1 to 3 pray for dismissal of the writ petition.

4. We heard the learned Government Pleader for the official respondents. This being a family dispute, the police did not interfere, it is submitted. Whenever cognizable offences were reported, crimes were registered.

5. Having regard to the nature of the dispute, the allegations and the counter allegations, we feel that this is not a case, where the police should be asked to interfere and grant protection to one side or the other. The parties have to settle their dispute before the Family Court or before the appropriate forum. Therefore, the prayer of the petitioner for police protection is rejected. But, it is clarified that if any cognizable offence is reported either by the petitioner or by the other side, the police shall promptly look into the same and take appropriate action in accordance with law.

The writ petition is disposed of as above.

(K.Balakrishnan Nair, Judge)

5th December, 2007

(K.P.Balachandran, Judge)

tkv